BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Harold G. & Glenda S. Elliott Dist. 5, Map 33, Control Map 33, Parcels 34.02 & 34.03 Residential Property Tax Year 2007	)) Claiborne County))

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

Parcel 34.02

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$11,300	$270,600	$281,900	$70,475

Parcel 34.03

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$11,300	$47,900	$59,200	$14,800

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 19, 2007 in Tazewell, Tennessee. The taxpayers were represented by David A. Winchester, Esq. The assessor of property was represented by staff member Judy Myers.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of two 1.5 acre tracts improved with single family residences and detached garages located on Hopewell Road in Tazewell, Tennessee. The residence on parcel 34.02 (5020 Hopewell Road) was constructed over an almost ten year period beginning in the early to mid-1990's.[1] The residence on parcel 34.03 (5018 Hopewell Road) was constructed in 1946.

The taxpayers contended that parcels 34.02 and 34.03 should be valued at $209,000 and $45,000 respectively. In support of this position, the taxpayers argued that the 2007 countywide reappraisal caused the appraisals of subject parcels to increase excessively. The taxpayers asserted that subject parcels should be appraised in accordance with the Final Decision and Order issued by the Assessment Appeals Commission on November 18, 2003. In particular, the taxpayers maintained that no improvements have been made to parcel 34.03 and the Commission's adopted value of $45,000 should apply to the current tax year as well. With respect to parcel 34.02, the taxpayers contended that the $231,275

[1] The record contains references to both 1993 and 1996 as the date construction commenced. Construction was still ongoing when Claiborne County previously reappraised in 2002. Both parties agree that construction was completed by January 1, 2007, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

replacement cost new utilized by the Commission should be used for the current tax year rather than the $285,392 assumed by the assessor of property.

The taxpayers also argued that subject land has been appraised in excess of its market value. In support of this position, two vacant land sales and the assessor's appraisals of other tracts of land were introduced into evidence. The taxpayers maintained that the sales and appraisals support adoption of land values of between $5,000 and $5,873 per acre.

The assessor contended that parcels 34.02 and 34.03 should remain should remain valued at $281,900 and $59,200 respectively. In support of this position, the testimony and written analysis of Ryan Cavanah, RES was introduced into evidence. Essentially, Mr. Cavanah prepared cost approaches and sales comparison approaches for both parcels which he asserted support market value indications of $289,500 and $59,400 for parcels 34.02 and 34.03 respectively.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that subject parcels should be valued at $279,800 and $57,100 respectively. As will be discussed below, the administrative judge finds that subject lots should be valued at $6,109 per acre or $9,200 after rounding. The administrative judge finds that the taxpayers introduced insufficient evidence to warrant any further reductions in value.

Since the taxpayer is appealing from the determination of the Claiborne County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject parcels as of January 1, 2007 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

> The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

> The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2. Respectfully, the administrative judge finds that the taxpayers did not introduce any improved sales into evidence.

The administrative judge finds that Claiborne County last reappraised in 2002. The administrative judge finds that the decision of the Assessment Appeals Commission relied on by the taxpayers involved values as of January 1, 2002.[2] The administrative judge finds that the taxpayers did not introduce any improved sales or market data to support their assertion that values and construction costs have not changed between January 1, 2002 and January 1, 2007.

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the State Board of Equalization has historically adhered to a market value standard when setting values for property tax purposes. See *Appeals of Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the overall level of appraisal in the jurisdiction for the tax year in controversy.[3] The State Board has repeatedly refused to accept the *appraised* values of purportedly comparable properties as sufficient proof of the *market* value of a property under appeal. For example, in *Stella L. Swope* (Davidson County, Tax Years 1993 and 1994), the Assessment Appeals Commission rejected such an argument reasoning as follows:

> The assessor's recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Final Decision and Order at 2.

As previously indicated, the administrative judge finds that the proof does support adoption of land values of $6,109 per acre or $9,200. The administrative judge finds that the best evidence of land value was the September 15, 2005 sale of a 5.5 acre tract on Hopewell Road for $32,000 or $5,818 per acre. The administrative judge finds that generally accepted appraisal practices require the sale be adjusted for size (5.5 vs. 1.5 acres)

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[2] The administrative judge finds that tax years 2002 and 2003 were ultimately consolidated before the Commission. In accordance with its long standing practice, the values established as of January 1, 2002 were simply carried forward for tax year 2003.

[3] See Tenn. Code Ann. §§ 67-5-1604-1606. Usually, in a year of reappraisal – whose very purpose is to appraise all properties in the taxing jurisdiction at their fair market values – the appraisal ratio is 1.0000 (100%). That is the situation here.

and time (September 15, 2005 vs. January 1, 2007). Given the limited sales data in the record, the administrative judge finds a seemingly modest 5% adjustment should be assumed. This results in a value indication of $6,109 per acre.

The administrative judge finds both parties introduced into evidence the August 18, 2006 sale of a 3.23 acre tract on Hopewell Road for $15,000 or $4,644 per acre. Like Mr. Cavanah, the administrative judge finds this sale has significantly less probative value because of the drastic difference in road frontage. The administrative judge finds that this parcel has only 34 feet of road frontage whereas subject parcels both have 310 feet of road frontage. The administrative judge finds that this comparable is also over twice the size of subject parcels and should therefore be adjusted for this factor as well.

The administrative judge finds that the August 15, 2007 sale of a 2.5 acre parcel on Hopewell Road introduced by the taxpayers occurred long after the relevant assessment date of January 1, 2007 and must therefore be deemed irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events." Final Decision and Order at 3.

ORDER

It is therefore ORDERED that the following values and assessments be adopted for tax year 2007:

Parcel 34.02

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$9,200	$270,600	$279,800	$69,950

Parcel 34.03

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$9,200	$47,900	$57,100	$14,275

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be**

filed within thirty (30) days from the date the initial decision is sent." Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 27th day of September, 2007.

MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: David A. Winchester, Esq.
Kay Sandifer, Assessor of Property